

## Letter Report:

### Real Estate Appraiser Licensing and Certification Board

#### PERD's Objective:

Evaluate the allegations made against the Board for not complying to W.Va. Code §30-38-17 which requires a public hearing or public comment period be held when the Board adopts new editions of the Uniform Standards of Professional Appraisal Practice (USPAP).

#### Recommendation:

*The Legislative Auditor recommends that the Board follow W.Va. Code §30-38-17 and conduct public hearings or public comment periods when a new edition of USPAP is up for adoption or present a viable alternative to the Legislature.*

Pursuant to West Virginia Code §4-2-5, the legislative auditor directed the Performance Evaluation and Research Division (PERD) to evaluate allegations received by PERD from the public and licensees stating that the Board was not following W.Va. Code §30-38-17 which requires a public hearing or public comment period be held when the Board adopts new editions of the Uniform Standards of Professional Appraisal Practice (USPAP).

#### What Did PERD Find?

PERD requested a legal opinion from Legislative Services, within the Office of the Legislative Auditor, to determine if the Board is to subject each amended version of USPAP to a public hearing or public comment period before it can be adopted in accordance with W.Va. Code §30-38-17.

- The legal opinion determined that a public hearing or comment period is required prior to adoption of an amended version of USPAP.
- The Board has not complied with W.Va. Code §30-38-17 since 2009.
- While the Board agrees with the legal opinion, it stated that it discontinued having public hearings because the time it takes to amend legislative rules the Board would soon have another revised USPAP, and using emergency-rule making authority would be inappropriate because such changes would not constitute an emergency.
- To remedy the situation, the Board intends to request a rule change in the 2022 legislative session and have stricken from W.Va. Code §30-38-17 the following sentence: "The board may, after a public hearing or public comment held in accordance with provisions of article three, chapter twenty-nine-a of this code, adopt revised versions or make modifications of or additions to the uniform standards of professional appraisal practice."